

D & A Property Group Pty Ltd
Level 9 Suite 904 31 Market Street
SYDNEY NSW 2000

D316/13
GM (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979
(AS AMENDED)**

**Notice to Applicant of Determination of Request
to Modify a Development Consent**

Pursuant to Section 96 of the Act notice is hereby given of the determination by the consent authority of your request for a modification to Development Consent No. **316/13** and registered in Council's records as Application No. **316/13/4** relating to the land described as **139-147 West Street, Crows Nest**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated 28 April 2014, has been determined in the following manner:-

To delete conditions C18, C19 and C29 and add the following conditions:

Required Infrastructure Works –Roads Act 1993

C18. Prior to issue of any Construction Certificate engineering design plans and specifications must be prepared by a qualified civil design engineer. The plans and specifications must be to a detail suitable for construction issue purposes and must provide detail and specification for the following infrastructure works to be completed as part of the development. The responsibility for accuracy of the design fully rests with the designing engineer. All responsibility on implementation and supervision of works specified on design plans fully rests on designing engineer or whoever is chosen to be applicant's engineering representative:

Drainage Works

Connection of the site stormwater system must be made directly to a newly constructed grated gully pit (with lintel), to front the site on West Street. To accommodate this requirement, the following drainage infrastructure works must be carried out on Council property at the Applicants expense:-

- a) Construction of a standard grated gully pit with extended kerb inlet (2.4m lintel) in the kerb fronting the subject site in West Street. The pit must be constructed in accordance with Councils "Infrastructure Specification for Roadworks, Drainage and Miscellaneous Works".

- b) Construction of a new in-ground drainage line under the kerb and gutter at standard depth. The line must connect the new gully pit to the existing Council pit located downstream of the site (on West Street). The pipes within the road reserve are to be reinforced concrete class 2 with a minimum 375mm diameter and have bedding in accordance with Australian Standard AS 3725 – (Loads on buried concrete pipes). The developer shall be responsible for carrying out any service investigations to allow a gravity connection.

Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

Certifying Authorities must not issue a Construction Certificate without the formal written approval of Council (as Roads Authority) under the Roads Act 1993.

The required plans and specifications are to be designed in accordance with North Sydney Council's current documents Infrastructure Specification for Road Works, Drainage and Miscellaneous Works and Performance Guide for Engineering Design and Construction. The drawings must detail existing utility services and trees affected by the works, erosion control requirements and traffic management requirements during the course of works. A detailed survey must be undertaken as required. Traffic management is to be certified on the drawings as being in accordance with the documents SAA HB81.1 – 1996 – Field Guide for Traffic Control at Works on Roads – Part 1 and RMS Traffic Control at Work Sites (1998). **Construction of the works must proceed only in accordance with any conditions attached to the Council Roads Act 1993 approval.**

Note: A minimum of 21 days will be required for Council to assess Roads Act submissions. Early submission is recommended to avoid any delays in obtaining a Construction Certificate. A fee to cover cost of assessment (set out in Council's adopted fees and charges) is payable and Council will withhold any consent and approved plans until full payment of the correct fees. Plans and specifications must be marked to the attention of Council's Development Engineers. In addition, a copy of this condition must be provided, together with a covering letter stating the full address of the property and the accompanying DA number.

(Reason: To ensure infrastructure works are designed and constructed to appropriate standards and requirements of the Roads Act 1993)

Stormwater Management and Disposal Design Plan

- C19. Prior to issue of the Construction Certificate, the applicant shall have a site drainage management plan prepared by a qualified drainage design engineer. The site drainage management plan must detail the following requirements of North Sydney Council:

- a) Compliance with BCA drainage requirements, Councils Engineering Performance guide and current Australian Standards and guidelines, such as AS/NZ3500.3.2 1998, National Plumbing and Drainage Code.
- b) Stormwater runoff and subsoil drainage generated by the approved dwellings must be conveyed in a controlled manner by gravity via a direct connection to Council's stormwater gully pit which is to be constructed in front of property in West Street. When a direct connection to the pit option is implemented then the pipeline within the footpath area shall have a minimum cover of 300mm.
- c) The new – minimum 375mm reinforced concrete pipeline class 2 in West Street is to be constructed between the new pit and the first existing pit downstream of the property in West Street. Within the road reserve, pipe shall have a minimum cover of 450mm.
- d) On site detention must be provided to ensure that the maximum discharge from the site is not exceeded that which would occur during a 1 in 5 year storm of 1 hour duration for the existing site conditions. All other stormwater run-off from the site for all storms up to the 1 in 100 year storm is to be retained on the site for gradual release to the kerb and gutter or drainage system as required by Director of Assets and Infrastructure Services. Provision is to be made for satisfactory overland flow should a storm in excess of the above parameters occur. Engineering calculations, design and certification shall be certified by an appropriately qualified and practicing Civil Engineer and submitted to the Certifying Authority for approval with the Construction Certificate.
- e) The creation of a Positive Covenant (under the provision of the Conveyancing Act) on the property title to ensure the maintenance of the on site detention system facilities on the property being developed. Prior to occupation, details are to be submitted to Council for approval before registration with the Land Titles Office.
- f) The street stormwater drainage system shall be designed for an average recurrence interval (A.R.I.) of 1 in 20 years.
- g) All redundant stormwater pipelines within the footpath area shall be removed and the footpath and kerb reinstated.
- h) Any proposed fence and/or building is to be constructed so as not to impede the natural overland flow along the line of the easement.
- i) Provision is to be made for the collection and disposal in an approved manner of any overland flow entering the subject property, or concentrated as a result of the proposed works.
- j) All sub-soil seepage drainage shall be discharged via a suitable silt arrester pit. Details of all plans certified as being adequate for their intended purpose and compliant with the provisions of AS3500.3.2 by an appropriately qualified and practising civil engineer, shall be submitted with the application for a Construction Certificate.
- k) The use of the pump-out system for the stormwater disposal will be permitted for drainage of basement areas and some minor surface areas only, and must be designed in accordance with the following criteria:

- l) The pump system shall consist of two pumps, connected in parallel, with each pump being capable of emptying the holding tank at a rate equal to the rate of inflow for the one-hour duration storm. The holding tank shall be capable of holding one hour's runoff from a one-hour duration storm of the 1 in 100 year storm.
- m) The pump system shall be regularly maintained and serviced, every six (6) months.
- n) The creation of a Positive Covenant (under the provision of the Conveyancing Act) on the property title to ensure the maintenance of the pump-out facilities on the property being developed. Prior to occupation, details are to be submitted to Council for approval before registration with the Land Titles Office.
- o) The design and installation of the Rainwater Tanks shall comply with Basix and **Sydney Water** requirements. Overflow from tank shall be connected by gravity to the stormwater disposal system.
- p) Prevent any stormwater egress into adjacent properties by creating physical barriers and surface drainage interception.
- q) The foundations for building structures and walls adjacent to the drainage easement are to be constructed in such a manner that does not affect stormwater drainage lines.

Details demonstrating compliance are to be submitted with the Construction Certificate.

The Certifying Authority issuing the Construction Certificate must ensure that the approved drainage plan and specifications, satisfying the requirements of this condition, is referenced on and accompanies the Construction Certificate.

(Reason: To ensure controlled stormwater management and disposal without nuisance)

Acoustic Privacy (Residential Apartments)

C29. Noise levels in sole occupancy units of residential apartments must not exceed the following:

Location	Maximum
Habitable Rooms other than Sleeping Areas	40 LAeq (1hr)
Sleeping Areas	35 LAeq (1hr)

The "Maximum" limits are to apply in any hour of a 24 hour period with the windows of the sole occupancy unit closed.

"habitable room" has the same meaning as in the Building Code of Australia

A floor separating sole occupancy units shall have a weighted standardised impact sound pressure level $L'_{nT,w}$ not more than **55dB** when measured in-situ in accordance with AS ISO 140.7-2006 "Field measurements of impact sound insulation of floors" and rated to AS ISO 717.2-2004 "Rating of sound insulation in buildings and of building elements. Part 2: Impact sound insulation". This clause shall not apply to the floor of a kitchen, bathroom, toilet or laundry in a residential sole occupancy unit.

Mechanical equipment such as lift plant, air conditioning plant servicing the building and pumps shall not be located immediately adjacent bedrooms.

A statement from an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants, certifying that the acoustic mitigation measures outlined above have been satisfied, must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

(Reason: To comply with best practice standards for residential acoustic amenity)

Works as Executed Drawings and Video

G13. A works-as-executed survey drawing (W.A.E.) of the completed stormwater drainage system must be obtained. The W.A.E. survey drawing must show the alignment, depth and grade of the stormwater drainage pipelines, pits and ancillary plumbing. The W.A.E survey drawing must be reviewed by a qualified and practising civil engineer and certification provided to the Certifying Authority that the as-built system achieves the design intent of the plans approved with the Construction Certificate. Certification must be provided with the W.A.E survey drawing to the Certifying Authority prior to the issue of an Occupation Certificate.

A copy of the WAE survey drawing, CCTV - video inspection and certification must be submitted to the Council if it is not the Certifying Authority.

(Reason: Compliance with the Consent)

The conditions attached to the original consent for Development Application No. 316/13 by endorsed date of 28 April 2014 still apply.

ADVISINGS

- (a) Council is always prepared to discuss its decisions and in this regard, please do not hesitate to contact Geoff Mossemear. However, if you wish to pursue your rights of appeal in the Land and Environmental Court pursuant to Section 97 of the Environmental Planning and Assessment Act 1979 (as amended), you are advised that Council generally seeks resolution of such appeals through a Section 34 Conference, instead of a full Court hearing, subject to any further advice to the contrary from Council's Solicitors and senior staff. Such an approach is less adversarial, it achieves a quicker decision than would be the case through a Court hearing and it can give rise to considerable cost and time savings for all parties involved. The use of the Section 34 Conference approach requires the appellant to agree, in advance and in writing, that the Court appointed assessor will be given the full authority to completely determine the matter at the conference.
- (b) Pursuant to Section 96AB, an applicant is able to request Council to review its determination. An application for a review under Section 96AB of the Act must be made no later than 28 days after the date on which the application for the modification of the development consent was determined.
- (c) Prior to commencing any building, subdivision or associated constructions works, the following provisions of the Environmental Planning and Assessment Act 1979 (the 'Act') are to be complied with:
 - (i) A Construction Certificate is to be obtained in accordance with Section 81A(2) (a) of the Act.
 - (ii) A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b1)(i) of the Act.
 - (iii) Council is to be notified at least two (2) days of the intention to commence building works, in accordance with Section 81A(2)(c) of the Act.
- (d) You are advised that changes to the external configuration of the building, changes to the site layout, density and unit configuration internal changes to the proposed building or any changes to the proposed operation of a use **MAY** require the submission of a further modification under Section 96 of the Environmental Planning & Assessment Act, 1979 (as amended).

Council staff would be pleased to assist in identifying such changes which may require the submission of a modification of a Development Application under Section 96 of the Environmental Planning & Assessment Act.

DATE

Signature on behalf of consent authority
GEOFF MOSSEMENEAR
EXECUTIVE PLANNER